

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Committee on Governmental Oversight and Accountability

BILL: SB 1612

INTRODUCER: Senator Baxley

SUBJECT: Prison Industry Programs

DATE: April 1, 2019

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Cox</u>	<u>Jones</u>	<u>CJ</u>	Favorable
2.	<u>Ponder</u>	<u>McVaney</u>	<u>GO</u>	Favorable
3.	_____	_____	<u>RC</u>	_____

I. Summary:

SB 1612 amends s. 287.095, F.S., to remove the legislatively imposed cap on the amount of non-inmate made goods that may be provided by the Prison Rehabilitative Industries and Diversified Enterprises, Inc. (PRIDE) to its customers. The current cap for non-inmate made products is no more than two percent of total sales of the corporation.

The bill does not appear to have an impact on government revenues as PRIDE does not receive state funding or contribute to state revenues. However, PRIDE will likely experience a positive fiscal impact as it will no longer be required to maintain and audit records to verify compliance with the two percent cap.

The bill is effective July 1, 2019.

II. Present Situation:

PRIDE - Background

PRIDE was incorporated in December 1981 and was formally established by the Legislature in 1983 to act as a private not-for-profit corporation¹ operating correctional work programs in Florida's prisons.² The final transfer of correctional work programs was completed in July 1984.³

¹ Section 946.503(1), F.S., defines "corporation" for this chapter to mean the private nonprofit corporation established pursuant to s. 946.504(1), F.S., or a private nonprofit corporation whose sole member is the private nonprofit corporation established pursuant to s. 946.504(1), F.S., and at least 51 percent of the board of which contains members of the board of directors of the private nonprofit corporation established pursuant to s. 946.504(1), F.S., to carry out this part.

² Sections 946.501 and 946.502, F.S.; Ch. 83-209, L.O.F.

³ PRIDE Enterprises, *Annual Report 2017*, p. 29, available at https://www.pride-enterprises.org/Themes/PrideDefault/MediaContent/About/2017%20Annual%20Report/2017_Annual_Report.pdf (last visited March 17, 2019)(hereinafter cited as "Annual Report").

PRIDE does not receive funding from the Legislature and is supported by the earnings that it generates from the sale of its products and services.⁴

A correctional work program is defined to mean any program presently a part of the prison industries program operated by the Department of Corrections (DOC) or any other correctional work program carried on at any state correctional facility presently or in the future.⁵ The DOC is required to lease buildings and land to PRIDE to operate these correctional work programs.⁶

PRIDE currently operates 35 different work programs in 21 prison correctional facilities.⁷ These programs serve an average of 3,000 inmates a year, including 3,117 inmates in 2017.⁸ The inmates of these programs produce over 3,000 unique products, such as janitorial products, metal products, seating, and office and detention furniture.⁹ PRIDE manufactures and sells products to all levels of government as well as nonstate and private entities.¹⁰

PRIDE reports that it provides a number of “pass through”¹¹ items— or “contractually allied”¹² products, which are provided on a complementary basis together with PRIDE manufactured products. For example, PRIDE manufactures cleaning supplies such as floor waxes, hand soap, glass cleaners and the like.¹³ For clients that purchase PRIDE’s cleaning supplies, PRIDE provides allied items such as plastic bags, mops, and trash containers.¹⁴ PRIDE places a small mark-up on the complementary or allied products and these items are shipped together with the PRIDE produced products, allowing it to serve as a single source for its customers. PRIDE reports that the two percent cap restricts them from being able to pass through these allied items in a sufficient amount.¹⁵

Cap on Non-Inmate Made Goods

Section 287.095, F.S., provides, in part, that all products offered for purchase to a state agency by PRIDE must be produced primarily by inmate labor. PRIDE is able to provide products that are not made by inmates when those products are “contractually allied” to products made by

⁴ *Id.*

⁵ Section 946.503(2), F.S. However, the term does not include any program authorized by s. 945.091, F.S. (extension of the limits on confinement, specifically work release), or s. 946.40, F.S. (use of prisoners in public works).

⁶ Section 946.504, F.S.

⁷ PRIDE Enterprises, *Company Overview*, available at <https://www.pride-enterprises.org/content.aspx?page=CompanyOverview>; See also The PRIDE Enterprises, *PRIDE locations*, February 2, 2019, available at <https://www.pride-enterprises.org/content.aspx?page=Locations> (all sites last visited on March 17, 2019).

⁸ Annual Report, p. 19.

⁹ PRIDE Enterprises, *PRIDE Enterprises Company Profile*, January 2019 (on file with the Senate Criminal Justice Committee).

¹⁰ Annual Report, p. 23.

¹¹ PRIDE Enterprises, *SB 1612, HB 6055 Prison Industry Programs Repealer Bill, Explanation of Repealer Bill* (on file with the Senate Criminal Justice Committee).

¹² See Section 287.095, F.S.

¹³ *Supra* note 11.

¹⁴ *Id.*

¹⁵ *Id.*

inmates and offered by PRIDE.¹⁶ However, PRIDE may not offer these non-inmate made products in an amount that exceeds two percent of the total sales of the corporation in any year.¹⁷

Prison Industry Enhancement Program

The Prison Industry Enhancement Program (PIE) allows for inmate-produced goods to enter into interstate commerce if produced under a Prison Industry Enhancement Certification Program (PIECP)¹⁸ designated authority.¹⁹ PRIDE is the PIECP certificate holder for the state of Florida, which allows inmates assigned to these PRIDE industries to have the opportunity to earn wages comparable to those paid to free-world workers in the locality of the prison industry. As proscribed by law and discussed below, authorized deductions from wages are required and give inmates the opportunity to pay restitution to victims and to provide support for their families.²⁰

PRIDE is authorized to operate or contract with the private sector for substantial involvement in a PIE program that includes, but is not limited to, contracts for the operation of a direct private sector business within a prison and the hiring of inmates. Any contract authorized must be in compliance with federal law governing inmate work programs and must not result in the significant displacement of employed workers in the community.²¹

PRIDE is authorized to deposit and withdraw funds from the Prison Industries Trust Fund (Trust Fund). Deposits to the fund are generated through a 50 percent withholding on all PIE inmate wages.²² The Trust Fund must consist of moneys authorized to be deducted pursuant to 18 U.S.C. s. 1761(c), and the applicable federal guidelines, to be appropriated by the Legislature, and moneys deposited by PRIDE to manage and operate correctional work programs.²³

The appropriated funds must be used by PRIDE for purposes of construction or renovation of its facilities or for the expansion or establishment of correctional work programs or for PIE programs.²⁴ Further, the funds must be deposited in the State Treasury and may only be paid out on warrants drawn by the Chief Financial Officer upon receipt of an authorized corporate resolution. PRIDE is required to maintain all necessary records and accounts relative to such

¹⁶ Section 287.095(3), F.S.

¹⁷ *Id.*

¹⁸ The Bureau of Justice Assistance provides that the PIECP is “an effective inmate employment program that enables prisoners to repay their debt to society, reduce incarceration costs, and prepare for release with improved work prospects. In the process, PIECP supports victims’ families, decreases recidivism, generates products and tax income for local economies, and uses free-market principles and private-sector participation to improve efficiency in the corrections industry.” See Bureau of Justice Assistance, *PIECP Program Brief*, August 2018, available at https://www.bja.gov/Publications/PIECP-Program-Brief_2018.pdf (last visited on March 17, 2019).

¹⁹ U.S. Department of Justice, Office of Justice Programs, Bureau of Justice Assistance, Program Brief, p. 1, March 2004, available at <https://www.ncjrs.gov/pdffiles1/bja/203483.pdf>; See also The PRIDE Enterprises, *Governing Laws*, available at <https://www.pride-enterprises.org/content.aspx?page=GoverningLaws#StatutoryMissions> (all sites last visited on March 17, 2019).

²⁰ *Id.* In 2018, inmate workers contributed over \$112,000 to the State Crime Compensation Fund and paid over \$110,000 toward court-ordered restitution and family support.

²¹ Section 946.523(1), F.S.

²² PRIDE Enterprises, *Governing Laws*, available at <https://www.pride-enterprises.org/content.aspx?page=GoverningLaws#StatutoryMissions> (last visited on March 17, 2019).

²³ Section 946.522(1), F.S.

²⁴ Such programs are authorized under s. 946.523, F.S.

funds.²⁵ Any balance in the trust fund at the end of any fiscal year must remain in the trust fund at the end of that year and will be available for carrying out the purposes of the trust fund.²⁶

Other Statutory Requirements Placed on PRIDE

An inmate may be employed by PRIDE or by any other private entity operating on the grounds of a correctional institution during the last 24 months of the inmate's imprisonment.²⁷ PRIDE is required to establish a compensation plan that provides for a specific amount to be paid to the DOC to be credited to an account for an inmate performing labor and a portion to be used to make any court-ordered payments, including restitution to the victim. Additionally, a specific amount must be paid to the Trust Fund.²⁸

III. Effect of Proposed Changes:

The bill amends s. 287.095, F.S., to remove the restriction that the value of non-inmate made products offered by PRIDE may not exceed two percent of PRIDE's total sales in any year.

The bill takes effect July 1, 2019.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

Not applicable. The bill does not require counties or municipalities to spend funds or take action requiring the expenditure of funds, nor does it reduce the authority of counties or municipalities to raise revenue. Likewise, it does reduce the percentage of a state tax shared with counties or municipalities.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None identified.

²⁵ Section 946.522(2), F.S.

²⁶ Section 946.522(3), F.S.

²⁷ Section 946.513(1), F.S.

²⁸ Section 946.512, F.S.

V. Fiscal Impact Statement:**A. Tax/Fee Issues:**

None.

B. Private Sector Impact:

The bill removes the statutorily imposed cap for the percentage of overall non-inmate goods allowing PRIDE to provide allied products without the additional costs of maintaining and auditing records to verify compliance. This will likely result in a positive fiscal impact on PRIDE.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends section 287.095 of the Florida Statutes.

IX. Additional Information:**A. Committee Substitute – Statement of Changes:**

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

B. Amendments:

None.